



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/763,223

01/26/2004

Byoung-Woo Cho

1781.1002

6553

21171

7590

09/02/2005

STAAS & HALSEY LLP

SUITE 700

1201 NEW YORK AVENUE, N.W.

WASHINGTON, DC 20005

EXAMINER

TOMPKINS, ALISSA JILL

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,223

Applicant(s)

CHO, BYOUNG-WOO

Examiner

Alissa J. Tompkins

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/26/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3765

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Subject headings should not be underlined.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 4, 5, 6, 7, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to whether the claim relates to yarn structure or fabric structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie (U.S. 2002/0000001) in view of Konucik (U.S. 4,941,210). Hall McKenzie shows reversible headwear made of a multiple fabric, which includes a

Art Unit: 3765

plurality of panels connected to one another to form a crown portion (Figures 1 and 2).

The headwear also has a head receiving part, which is a headband that receives the head of the wearer. Konucik discloses a quick-change sweatband that is designed to be attached to a cap. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Konucik to modify Hall McKenzie by placing the sweat band into the headwear, attaching it to the inner side of the head receiving part along the lower edge.

Claims 4, 5, 6, 7, and 8 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Lord et. al. Lord explains the sequence of operations of fabric manufacture including yarn preparation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to understand the way in which to align fabrics; warp yarns lie across length while weft yarns lie across the width.

Claims 9-11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie (U.S. 2002/0000001) and Konucik (U.S. 4,941,210) as applied to claims 1-3 above, and in further view of Yan (U.S. 6,131,202). The device of Hall McKenzie and Konucik show all of the claimed invention except for a sweatband including a stretchable fabric and a band core comprising a foam layer and an elastic band layer, wherein the band core and stretchable fabric are stitched along the lower edge with stretchable yarn. Shape tape is also stitched along the lower end to help maintain the shape of the headwear. Yan shows a stretchable fabric cap made from cotton and spandex having a sweatband attached to the lower edge with stretchable thread. The sweatband includes a band core (Figure 5), which has a foam and

Art Unit: 3765

elastomeric band allowing alleviation of pressure for the wearer. He also shows bias tapes stitched along the lower end of the headwear helping maintain it's shape. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hall McKenzie and Konucik with the teachings of Yan since the sweatband would offer the wearer more comfort and elasticity while allowing the headwear to be adapted to various head sizes of wearers without an additional size adjustable mechanism.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie (U.S. 2002/0000001), Konucik (U.S. 4,941,210), and Yan (U.S. 6,131,202) as applied to claims 1-11 and 13-20 above and in further view of Lee (U.S. 6,347,410). The device of Hall McKenzie, Konucik, and Yan show all of the claimed invention except for including stretchable yarns, which are uniaxially stretchable. Lee shows a self-sizing baseball cap wherein the sweatband segment is uniaxially stretchable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hall McKenzie, Konucik, and Yan with the teachings of Lee in order to offer a cap where the stretchable fabric from the sweatband includes uniaxially stretchable yarns.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Higgs (WO 0105259 A1) shows a cap with a band that is elastically stretchable. Richard (U.S. 5,146,630) shows a sweatband that is used to absorb perspiration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa J. Tompkins whose telephone number is 571-272- 3425. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alissa Tompkins
Patent Examiner
Art Unit 3765
August 22, 2005

AJT


JOHN D. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700